

FILED
ORIGINAL
December 22 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 09-0431

STATE OF MONTANA,

Respondent and Appellee,

v.

JERRY PAUL GONZALES,

Defendant and Appellant,

FILED

DEC 21 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**SECOND MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF
AND AFFIDAVIT IN SUPPORT**

**On Appeal from the Montana Thirteenth Judicial District Court
Yellowstone County, Gregory R. Todd**

APPEARANCES:

PENELOPE S. STRONG
Attorney at Law
2517 Montana Avenue
Billings, Montana 59101
Tel: (406) 839-9220
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SCOTT TWITO
Deputy Yellowstone County Attorney
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Billings, Montana 59107
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MARK MATTIOLI
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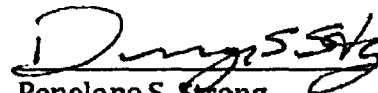
Motion for Extension of time to File Opening Brief and Brief in Support.

COMES NOW, Jerry Paul Gonzales, by and through his attorney, Penelope S. Strong, and respectfully moves the Court for an Extension of Time to file the Opening Brief for Appellant, pursuant to Rule 26 (2), Montana Rules of Appellate Procedure.

The brief is due December 28, 2009 and a thirty day extension is requested until January 27, 2010. Counsel has been diligent and can show a substantial need for this request, as set out in her affidavit, attached to this Motion.

Opposing counsel has been contacted and does not object.

DATED this 21st day of December, 2009.


Penelope S. Strong
Penelope Strong Law Firm
Attorney for Appellant

STATE OF MONTANA)

: ss.

County of Yellowstone)

AFFIDAVIT IN SUPPORT OF MOTION FOR EXTENSION OF TIME

PENELOPE S. STRONG, being duly sworn, on oath deposes and states:

1. I am counsel of record for the Appellant, Mr. Jerry Paul Gonzales in this case.
2. I am a sole practitioner and carry a full-time case load. I do my own word processing for my briefs.
3. I make this affidavit to support the second motion for an extension in which to file the opening brief. The brief is due December 28, 2009 and I am asking to extend that to January 27, 2010.
4. I have been diligent in this matter and there is a substantial need for the extension,

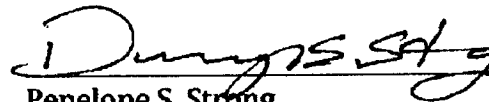
Motion for Extension of time to File Opening Brief and Brief in Support.

which will not unduly delay the matter.

5. In the past month, I have had serious malfunctions with my computer and it has been periodically shutting down, constantly delaying the completion of my work.
6. My computer technician has been able to intervene and retrieve most of my information. He now advises that to avoid this type of ongoing problem, he update and replace part of my relevant programs. I have arranged to have him perform this work during the next ten day, as with the holidays, that will be the least disruptive to my workload.
7. Thus, I need an extension of time to complete this brief.

Further Your Affiant Sayeth Not.

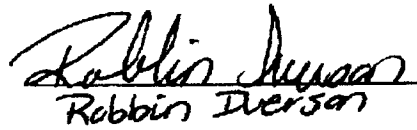
DATED this 21st day of December, 2009.



Penelope S. Strong
Penelope Strong Law Firm
Attorney for Appellant

STATE OF MONTANA)
 : ss
County of Yellowstone)

This instrument was acknowledged before me on this 21st day of December, 2008.



Robbin Iverson
Name of Notary
Notary Public for the State of Montana
Residing at: Yellowstone County
My Commission Expires: January 17, 2010



Motion for Extension of time to File Opening Brief and Brief in Support.

CERTIFICATE OF SERVICE

I, hereby certify that I have filed a true and accurate copy of the foregoing Notice of Appeal with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing NOTICE OF APPEAL upon the Clerk of District Court, each attorney of record, and each party not represented by attorney in the above-referenced District Court action as follows:

Scott Twito
Deputy Yellowstone County Attorney
P.O. Box 35025
Billings, MT 59107

Mark Mattioli
Assistant Attorney General
Department of Justice
P.O. Box 201401
Helena, MT 59620-1401



Robbin Iverson

PENELOPE STRONG

Penelope Strong Law Firm 2517 Montana Avenue, Billings MT 59101
Tel: 406-839-9220, Fax: 406-839-9221

DATE: December 21, 2009

FAX: 406-444-5705

TO: Ed Smith
Clerk of the Montana Supreme Court
Rm. 323 Justice Building
215 N. Sanders
PO Box 203003
Helena, MT 59620-3003

FILED

DEC 21 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

RE: State of Montana v. Jerry Paul Gonzales

☐ For Your Information
☐ For Your Signature
☐ For Your Approval
☒ For Filing
☐ Please Return Signed Copy
☐ For Your Comments

☒ Your Attention is Required
☐ Per Your Request
☐ Per Our Conversation
☐ Please See Me
☐ Would like to discuss with you.
☐ Please Call.

Please find attached Motion for extension of Time to be filed with the court. The original are in the mail. If you have any questions regarding this matter please call the office 406-839-9220.

Thank you for your attention in this matter.

By: 

Total Number of pages: 7

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